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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,748	12/08/2003	Charles R. Bell	23921.00	9378
37833 7590 05/16/2007 LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			EXAMINER POWERS, WILLIAM S	
			ART UNIT 2134	PAPER NUMBER
			MAIL DATE 05/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/728,748	Applicant(s) BELL, CHARLES R.	
	Examiner William S. Powers	Art Unit 2134	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/8/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/8/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Objections***

2. Claim 8 is objected to because of the following informalities: from the structure of the rest of the claims claim 8 should depend from claim 7, but the claim language indicates it depends from claim 5. For the purpose of examination, the Examiner assumes that claim 8 depends from claim 7. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,744,910 to McClurg et al. (hereinafter McClurg) in view of US Patent No. 5,930,804 to Yu et al. (hereinafter Yu) and further in view of US Patent No. 6,498,861 to Hamid et al. (hereinafter Hamid).

As to claims 1 and 9, McClurg teaches:

- a. A portable scanner unit, said scanner unit having a top surface (remote fingerprint scanner) (McClurg, column 3, lines 47-50 and figures 4A and 4B).

McClurg does not expressly mention that the scanner is heat sensitive. However, in an analogous art, Yu teaches:

- b. A heat-sensitive scanning area disposed on said top surface for recording biometric data (temperature sensing mechanism) (Yu, column 7, lines 4-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the remote fingerprint scanner of McClurg

with the temperature sensing mechanism of Yu in order to "safeguard against biometric forgery" as suggested by Yu (Yu, column 7, lines 4-7).

McClurg as modified further teaches:

- c. A computer unit, said scanner unit electronically connected to said computer unit (host processor) (McClurg, column 3, lines 56-58).
- d. A database storage facility remote from said scanner unit and said computer, said database storage facility being electronically connected with said scanner unit by way of said computer to receive said biometric data and to emit a signal in response thereto (host processor can be connected to National Crime Information Center to process biometric data) (McClurg, column 9, lines 45-62).
- e. At least three indicators disposed on said top surface of said scanner unit (McClurg, column 8, lines 32-34 and figures 4A and 4B).

McClurg as modified does not expressly mention that the indicators receive signals from the database storage. However, in an analogous art, Hamid teaches said indicators electronically connected to said database storage facility to receive said emitted signal (Hamid, column 11, lines 46-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the remote fingerprint scanner of McClurg as modified with the LED indicators of Hamid in order to "provide sufficient information for use of the system" as suggested by Hamid (Hamid, column 11, lines 60-61).

As to claim 2, McClurg as modified teaches said biometric data is recorded from a fingerprint (remote fingerprint scanner) (McClurg, column 3, lines 47-50).

As to claims 3 and 10, McClurg as modified teaches said emitted signal is a signal having a negative connotation and wherein said signal is received by only one indicator of said three indicators (rejection signal) (Hamid, column 11, lines 60-67).

As to claims 4 and 11, McClurg as modified teaches said one indicator is a red light (red indicates rejection) (Hamid, column 11, lines 60-67). It is noted that the color of the light is not material to the invention and does not affect the inventions functionality.

As to claims 5 and 12, McClurg as modified teaches said emitted signal is a signal having a positive connotation and wherein said signal is received by only one indicator of said three indicators (identification of user signal) (Hamid, column 11, lines 60-67).

As to claims 6 and 13, McClurg as modified teaches said one indicator is a green light (green indicates identification) (Hamid, column 11, lines 60-67). It is noted that the color of the light is not material to the invention and does not affect the inventions functionality.

As to claims 7 and 14, McClurg as modified teaches said emitted signal is a signal having a processing connotation and wherein said signal is received by only one indicator of said three indicators (more information required signal) (Hamid, column 11, lines 60-67).

As to claims 8 and 15, McClurg as modified teaches said one indicator is a yellow light (yellow indicates further information needed) (Hamid, column 11, lines 60-67). It is noted that the color of the light is not material to the invention and does not affect the inventions functionality.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is listed in USPTO form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers whose telephone number is 751 272 8573. The examiner can normally be reached on m-f 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571.272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



William S. Powers  
Examiner  
Art Unit 2134

5/10/2007

